

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

TOMITA TECHNOLOGIES USA, LLC, and  
TOMITA TECHNOLOGIES INTERNATIONAL,  
INC.,

Plaintiffs,

v.

NINTENDO CO., LTD. and NINTENDO OF  
AMERICA INC.

Defendants.

11 Civ. 04256 (JSR)  
ECF Case

**NOTICE OF MOTION IN SUPPORT  
OF DEFENDANTS' MOTION *IN*  
*LIMINE* TO PRECLUDE TOMITA  
FROM CONTRADICTING THE  
FEDERAL CIRCUIT'S CLAIM  
CONSTRUCTION**

PLEASE TAKE NOTICE that pursuant to Rule 9 of the Individual Rules of Practice of Hon. Jed. S. Rakoff, defendants Nintendo Co., Ltd. and Nintendo of America, Inc. (collectively, "Nintendo") move this Court for an order precluding plaintiffs from contradicting the Federal Circuit's claim construction at trial by arguing that the construction encompasses offsetting both left-eye and right-eye images.

In support of this motion, Nintendo shall rely upon this Notice of Motion, the Memorandum of Law in Support of Defendants' Motion *in Limine* to Preclude Tomita from Contradicting the Federal Circuit's Claim Construction, and the Declaration of James S. Blank, dated July 21, 2015, together with its exhibits.

In accordance with Rule 9 of the Individual Rules of Practice of Hon. Jed S. Rakoff, the anticipated schedule for service and filing of the parties' papers is as follows:

Nintendo's Motion July 21, 2015

Plaintiffs Tomita Technologies USA, LLC and July 28, 2015  
Tomita Technologies International, Inc.  
Response Brief

Oral argument has not been scheduled.

Dated: July 21, 2015

Respectfully submitted,

KAYE SCHOLER LLP

By: /s/ James S. Blank

James S. Blank

Scott G. Lindvall

250 West 55<sup>th</sup> Street

New York, NY 10019-9710

Tel: 212-836-8000

Fax: 212-836-8689

james.blank@kayescholer.com

scott.lindvall@kayescholer.com

Paul I. Margulies

The McPherson Building

901 Fifteenth Street NW

Washington, DC 20005

Tel: 202-682-3500

Fax: 202-414-0342

paul.margulies@kayescholer.com

*Attorneys for Defendant*